

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1387 of 2017

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Hardev Thakur, S/o Late Nageshwar Thakur, Resident of Mahmadpur, Panchayat-Harichanda, P.S.-Kanti, District-Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Food & Consumer Protection, Government of Bihar, Patna.
2. The Collector, Muzaffarpur.
3. The Sub Divisional Officer, (West) Muzaffarpur.
4. The Block Supply Officer, Kanti, Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari, Adv.

For the Respondent/s : Mr. Upendra Pratap Singh, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 15-05-2017

Heard learned counsel for the petitioner and counsel for the State.

In the present case, the petitioner is challenging the order contained in Memo No. 3437/Aa dated 28.12.2016 whereby and whereunder the license for running a Fair Price Shop has been cancelled.

Learned counsel for the petitioner has raised a grievance that an inspection was conducted under the leadership of Additional Sub Election Officer, (West) Muzaffarpur, Block Supply Officer, Sariya and Block Supply Officer, Paroo and found irregularities in running the PDS shop, whereupon, a show-cause was issued to the



petitioner vide Memo No. 3296 dated 25.11.2016, wherein, altogether five charges have been mentioned and the petitioner was called to file reply. In reply, the petitioner has specifically mentioned that the enquiry report was not served upon him which is not in dispute and ultimately the S.D.O., (West) Muzaffarpur has passed the order thereby cancelled the licence.

A limited grievance has been raised in this writ application that the basis for issuance of show-cause is the enquiry report, whereupon, the show-cause was served upon the petitioner and enquiry report was never handed over to the petitioner in that way, the S.D.O., (West) Muzaffarpur has failed to observe the natural justice as it was the bounden duty of the S.D.O. before passing any order, he should have at least served the copy of the enquiry report and only, thereafter, the adverse order could have been passed. It is well known principle of law that before passing any order, the enquiry report should be served upon the petitioner. As it appears that three persons have visited the shop of the petitioner who have reported certain irregularities in running the PDS shop which was the basis for issuance of show-cause. In that circumstances, it was obligatory on the part of the S.D.O., (West), Muzaffarpur to serve the copy of the enquiry report along with the show-cause but, that has not been done.

In that view of the matter, the order as contained in Memo



No. 3437/Aa dated 28.12.2016 is set aside and the matter is remanded back to give a copy of the enquiry report to the petitioner who, if advised, may file additional explanation and the S.D.O., (West), Muzaffarpur, after giving an opportunity of hearing to the petitioner, will pass order in accordance with law.

This application is, accordingly, allowed to the
aforementioned extent.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.05.2017
Transmission Date	NA

